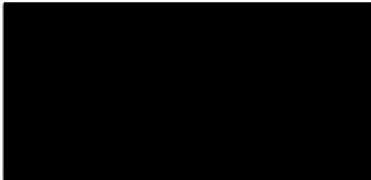


12 October 2022

Our Reference: 4551



To the proper officer

***Heavy Vehicle National Law***  
**Part 10.1A – Enforceable Undertakings**  
**REASONS FOR DECISION**

**I. Introduction**

1. In accordance with section 590A (7) of the Heavy Vehicle National Law (“HVNL”), I provide written notice and reasons for my decision to accept the Enforceable Undertaking proposed (“the EU proposal”) pursuant to Part 10.1A of the HVNL. I have considered this proposal and assessed it against the National Heavy Vehicle Regulator’s (NHVR) Prosecution Policy (“the policy”), Enforceable Undertakings Policy (“the EU policy”) and the Guidelines on Proposing an Enforceable Undertaking (“the EU guidelines”). For the reasons set out below I am of the opinion that the EU proposal, in the circumstances, is an appropriate enforcement option for the particular contraventions alleged in this case.

The Alleged Facts

2. It is alleged that on 11 May 2022, Knight Rider Logistics Pty Ltd (“Knight Rider Logistics”), being a corporation, permitted another, namely Karanjit SINGH, to operate a heavy vehicle. The maximum allowable length of the heavy vehicle was 25 metres. The total length of the heavy vehicle was measured at 26.46 metres. Taking into account the applicable dimension adjustment of 100mm, the vehicle’s total alleged length was 26.36 metres, an excess length of 1.36 metres which amounts to a critical risk breach.

The Proposed Enforceable Undertaking

3. The EU proposal from Knight Rider Logistics, amounting to a total estimated cost of \$35,000, is as follows:

- **Activity 1** – Create a role within Knight Rider Logistics for a safety compliance/training officer – **Cost – \$25,000**

The Safety Training Officer to:

- a) inspect the company’s current safety arrangements and recommend any changes to the existing policies and arrangements;
  - b) approve and keep records of all pre-departure checklists completed by the sub-contractors;
  - c) regularly train directors, office staff and subcontractors so that all internal stakeholders understand their obligations and responsibilities;
  - d) test the knowledge of existing staff on a yearly basis and provide safety induction to all new staff/contractors when commencing work for the company; and
  - e) ensure that all subcontractors have the necessary safety equipment to carry out their duties as per NHVR standards.
- **Activity 2** – Further training – **Cost – \$5,000**  
Knight Rider Logistics to engage an accredited training provider to deliver, annually, appropriate ‘chain of responsibility’ and/or another safety-related course to directors, office staff and subcontractors. Knight Rider Logistics to give notice to the NHVR of the accredited training provider it proposes to engage, and the details of the course, before engaging them to allow the NHVR to comment on whether the course and training provider are appropriate.
  - **Activity 3** – Change in policy in engaging with external contractors – **Cost – \$100**  
Knight Rider Logistics to get all external contractors to sign appropriate documents requiring them to ensure compliance with dimension and mass requirements and allowing Knight Rider Logistics to terminate its services if non-compliance is detected or becomes apparent. Signed documents to be received from existing external contractors within six (6) months of acceptance of this EU.
  - **Activity 4** – Preparation and distribution of pamphlets on prescribed dimension requirements applicable to heavy vehicles – **Cost \$2,500**  
Knight Rider Logistics to prepare a pamphlet in consultation with the NHVR, with the content of the pamphlet to be approved by the NHVR. The approved pamphlet to be used by the NHVR and distributed to heavy vehicle operators/companies/workers unions through print and digital media. The approved pamphlet to be available for distribution within 12 months of acceptance of this EU.

- Activity 5 – Conducting a toolbox talk emphasising heavy vehicle dimension requirements – **Cost \$2,500**

Knight Rider Logistics to conduct a ‘toolbox talk’/seminar to educate attendees on, and emphasise the importance of complying with, heavy vehicle dimension requirements.

Attendees would be required to take a quiz on dimension requirements and would have the opportunity to share their feedback. Toolbox talk to be held within six (6) months of acceptance of this EU.

## II. Criteria to be applied

4. In arriving at my decision I have evaluated the EU proposal against the 11 evaluation criteria in Section 4 of the EU Guidelines namely: (1) the nature and extent of the omission alleged; (2) the person’s compliance history; (3) whether the EU delivers benefits to the public beyond the Promisor’s compliance with the law; (4) the quality of the strategies proposed and the extent to which they are likely to achieve measurable improvement in heavy vehicle transport safety; (5) the likely improvements in safety within the Promisor’s business or operations; (6) the person’s ability, including financial ability, to meet the terms of the EU; (7) the significance of the commitment compared to the capability of the person; (8) the support the person has provided, and has committed to providing into the future to an injured or affected person(s); (9) input from injured and affected persons; (10) the likely outcome should the matter be dealt with through legal proceedings; and (11) reports or assessments of investigating or prosecuting agencies who have conduct of the matter.
5. With regards to criteria (1) and (2), I have considered the nature and extent of the conduct alleged and Knight Rider Logistics compliance history. I have considered that the allegations involve a single breach of dimension requirements under section 109(1)(b)(iii) of the HVNL and that the company has no prior prosecution history.
6. With regards to criteria (3), (4) and (5), I am satisfied that the proposed EU initiatives will benefit the public beyond the compliance of the law, are of good strategic quality, have potential to make some noticeable positive change in the transport industry in terms of implementation of safety measures, and are likely to improve Knight Rider Logistics’ business operations.
7. With regards to criteria (6) and (7), I am satisfied that Knight Rider Logistics has the ability to meet the terms of the EU and have taken into account the significance of the EU commitment, compared to its capability.

8. With regards to criteria (8) and (9), concerning the EU's support to injured or affected person(s) and input from injured and affected persons, I have found these factors are not a relevant consideration bearing in mind the specific facts of this matter.
9. With regards to criteria (10) and (11), concerning the likely outcome should this matter be dealt with through legal proceedings and the views of investigating and prosecuting agencies, I have similarly taken these matters into account.

### III. Conclusion

10. Considering all of these criteria, I am of the opinion that it is appropriate to proceed by way of an alternative to prosecution, through an EU proposal.

Yours sincerely



Sal Petrocchio

**Chief Executive Officer**